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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/591,503	09/01/2006	Kenki Takagi	P/1878-197	2333
2352	7590	03/06/2008	EXAMINER	
OSTROLENK FABER GERB & SOFFEN			NGUYEN, HAI V	
1180 AVENUE OF THE AMERICAS				
NEW YORK, NY 100368403			ART UNIT	PAPER NUMBER
			2618	
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			03/06/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	Application No.	Applicant(s)	
	10/591,503	TAKAGI ET AL.	
	Examiner HAI V. NGUYEN	Art Unit 2618	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 03 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 01 September 2006.  
 2a) This action is FINAL.                    2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-18 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_\_ is/are allowed.  
 6) Claim(s) 1-18 is/are rejected.  
 7) Claim(s) 7-9 and 16-18 is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on 01 September 2006 is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date <u>3/1/07; 9/1/06</u> . | 5) <input type="checkbox"/> Notice of Informal Patent Application |
|   | 6) <input type="checkbox"/> Other: _____                          |

## DETAILED ACTION

1. This Office Action is in response to the application filed on 01 September 2006.
2. Claims 1-18 are presented for examination.

### ***Claim Objections***

3. Claims 7-9, 16-18 are objected to because of the following informalities:
4. Claims 7-9, 16-18 recites the same or duplicate limitations. Appropriate correction is required.

### ***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 1-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over

**Egusa et al. US patent # 6,118,983 in view of Sakoda US patent # 6,909,704.**

7. As to claim 1, Egusa discloses a radio base station apparatus (*Figs. 2, 3, element 93*) for communicating with a plurality of mobile station terminals (*Figs. 4, 5, 7, elements 1-10*) over an air, comprising:

a storage unit (*Fig. 2, memory element 90*) which has previously stored therein upper limit values (*gain values set, col. 8, lines 4-34*) of transmission power for said mobile station terminals, a first threshold (*Figs. 4, 5, 7, element of "MIN settable transmission power level"*) referenced to determine whether or not the transmission power is reduced, a second threshold larger (*Figs. 4, 5, 7, element of "MAX settable transmission*

*power level")* than the first threshold, and priority levels (*Figs. 4, 5, 7, elements 1-10*) of said mobile station terminals; and

However, Egusa does not explicitly discloses a control unit for monitoring total transmission power which is a sum of the transmission power for all said mobile station terminals connected for mutual communication, by a predetermined value, reducing the upper limit value of the transmission power for said mobile station terminal which is assigned the lowest priority level when the total transmission power exceeds the first threshold, and terminating communications with said mobile station terminal which is assigned the lowest priority level when the total transmission power exceeds the second threshold.

Sakoda discloses a control unit (*Fig. 3, the total RPC power control section element 26*) for monitoring (*detecting*) total transmission power which is a sum of the transmission power for all said mobile station terminals connected for mutual communication, by a predetermined value (*a gain*), reducing the upper limit value of the transmission power for said mobile station terminal which is assigned the lowest priority level when the total transmission power exceeds the first threshold, and terminating communications with said mobile station terminal which is assigned the lowest priority level when the total transmission power exceeds the second threshold (*Fig. 9, col. 14, line 40 col. 15, line 62*).

Accordingly, it would have been obvious to one of ordinary skill in the networking art at the time the invention was made to have incorporate Sakoda's teaching of detecting the transmission power gain for mobile terminals with the teachings of Egusa

for the purpose of *satisfactory in controlling the transmission power information for base stations with the mobile stations* (Sakoda, col. 6, lines 57-61).

8. As to claim 2, Egusa-Sakoda discloses, wherein the larger a communication capacity that is required by said mobile station terminal, the higher is said priority level assigned to said mobile station terminal (Sakoda, *Fig. 7 showing mobile user # 5 has more capacity with higher priority than user #1*).

9. As to claim 3, Egusa-Sakoda discloses, wherein, when connected with said mobile station terminals through communications using a spread spectrum technology, the smaller a spreading factor that is used in the communication, the lower is said priority level assigned by said control unit (Sakoda, col. 3, *lines 4-67*).

10. As to claim 4, Egusa-Sakoda discloses, wherein, the smaller the spreading factor, the larger is said predetermined value assigned by said control unit (Sakoda, col. 3, *lines 4-67*).

11. As to claim 5, Egusa-Sakoda discloses, the larger the communication capacity that is required by said mobile station terminal, the smaller is said predetermined value assigned by said control unit (Sakoda, col. 3, *lines 4-67*).

12. As to claim 6, Egusa-Sakoda discloses, wherein, said control unit calculates the difference between the upper limit value stored in said storage unit and the current transmission power for said mobile station terminal, and sets the difference in values to said predetermined value (Sakoda, *Fig. 3, col. 10, lines 20-65*).

13. As to claim 7, Egusa-Sakoda discloses, wherein, said control unit reduces the upper limit value by said predetermined value in stages (*Sakoda, Fig. 3, col. 10, lines 20-65*).

14. As to claim 8, Egusa-Sakoda discloses, wherein, said control unit reduces the upper limit value by said predetermined value in stages (*Sakoda, Fig. 3, col. 10, lines 20-65*).

15. As to claim 9, Egusa-Sakoda discloses, wherein, said control unit reduces the upper limit value by said predetermined value in stages (*Sakoda, Fig. 3, col. 10, lines 20-65*).

16. Claim 10 corresponds to the method claim of claim 1; therefore, it is rejected under the same rationale as in claim 1 above.

17. Claims 11-18 have similar limitations of claims 2-9; therefore, they are rejected under the same rationale as in claims 2-9 above.

18. Further references of interest are cited on Form PTO-892, which is an attachment to this action.

Art Unit: 2618

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to HAI V. NGUYEN whose telephone number is (571)272-3901. The examiner can normally be reached on 6:00-3:30 Mon-Fri.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Matthew Anderson can be reached on 571-272-4177. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Hai V. Nguyen  
Examiner  
Art Unit 2618



MATTHEW ANDERSON  
SUPERVISORY PATENT EXAMINER